# EXECUTIVE SUMMARY - ENFORCEMENT MATTER DOCKET NO.: 2006-1727-PST-E TCEQ ID: RN102532801 CASE NO.: 31319 RESPONDENT NAME: ALMEDA, INC. DBA DOWNTOWN TIGER MART

ORDER TYPE:	,					
_1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING				
X FINDINGS DEFAULT ORDER	X SHUTDOWN ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER				
_AMENDED ORDER	EMERGENCY ORDER					
CASE TYPE:						
AIRMULTI-MEDIA (check all that apply)INDUSTRIAL AND H WASTE						
PUBLIC WATER SUPPLY	X PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION				
WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL				
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION				
SITE WHERE VIOLATION(S) OCCURRED: 2111 Fannin Street, Houston, Harris County  TYPE OF OPERATION: Convenience Store with retail sale of gasoline  SMALL BUSINESS: X Yes No  OTHER SIGNIFICANT MATTERS: There are no complaints. There is one other enforcement action pending for this facility location (2008-1875-PST-E).  INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.  COMMENTS RECEIVED: The Texas Register comment period expired on March 6, 2009. No comments were received.  CONTACTS AND MAILING LIST:  TCEQ Attorney: Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846  Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  TCEQ Enforcement Coordinator: Mr. Rajesh Acharya, Waste Enforcement Section, MC 128, (512) 239-0577  TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623  Respondent: Mr. Sadruddin Mohd, President, Almeda, Inc., 2111 Fannin, Houston, Texas 77002  Respondent's Attorney: Not represented by counsel on this enforcement matter.						

## RESPONDENT NAME: ALMEDA, INC. DBA DOWNTOWN TIGER MART DOCKET NO.: 2006-1727-PST-E

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation:	Total Assessed: \$55,080	Corrective Actions Taken:
Complaint _X Routine Enforcement Follow-up Records Review	Total Deferred: \$0Expedited OrderFinancial Inability to Pay SEP Conditional Offset	The Executive Director recognizes that the Respondent implemented the following corrective actions at the Facility:
Date of Complaint Relating to this Case: None.	Total Due to General Revenue: \$55,080	1. Submitted documentation to the TCEQ demonstrating that acceptable financial assurance was obtained on September 15, 2006;
Date of Investigation Relating to this Case:	This is a Default Order. The Respondent	2. Began conducting inventory control procedures on September 15, 2006; and
September 7, 2006  Date of NOE Relating to this Case: September 14, 2006	has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.	3. Submitted a completed UST registration and self-certification form and obtained a TCEQ delivery certificate on September 7, 2006.
		Ordering Provisions:
Background Facts: The EDPRP was filed on May 18, 2007 and mailed to the Respondent via certified mail, return receipt	Site Compliance History Classification High X Average Poor	The Respondent shall undertake the following technical requirements:
requested, and via first class mail, postage prepaid.  The United States Postal Service returned the	Person Compliance History	Immediately, shut down operations of the non-compliant UST systems:
wrapper sent by certified mail as "unclaimed." The	Classification	a. Cease dispensing fuel from the USTs;
first class mail has not been returned, indicating tha the Respondent received notice of the EDPRP. Or November 17, 2008, Notice of Intent to Shut Down	High _X_ Average Poor  Major Source: _X_ Yes No  Applicable Penalty Policy: September 2002	b. Cease receiving deliveries of regulated substances into the USTs;
letter was mailed to the Respondent. The Respondent failed to answer the EDPRP, failed to request a		c. Padlock the dispensers;
hearing, and failed to schedule a settlement		d. Empty the USTs of all regulated substances; and
conference.		e. Temporarily remove the UST system from service.
Current Compliance Status:  Respondent is not yet in compliance with release detection requirements. The Respondent's Delivery Certificate expires in June 2009.		2. The Respondent's UST delivery certificate is revoked immediately. The Respondent may submit an application for a new delivery certificate only after the Respondent has complied with all requirements.
PST:  1. Failed to demonstrate acceptable financial		3. Within 10 days, send its UST delivery certificate to the TCEQ.
assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 Tex. Admin. Code § 37.815(a) and (b)].		4. Within 15 days, submit to the Executive Director a detailed written report documenting the steps it has taken to comply with Ordering Provision Nos. 1.a. through 1.e. and 3.
2. Failed to monitor USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring) [30 Tex. ADMIN. CODE § 334.50(b)(1)(A) and Tex WATER CODE § 26.3475(c)(1)].		5. If the Respondent elects to permanently remove from service any UST systems at the Facility, shall permanently remove those USTs, and shall submit to the Commission a written report documenting compliance.
3. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the		6. Prior to resuming retail sales of gasoline, implement a release detection method for all USTs at the Facility.  7. Prior to receiving gasoline deliveries:
amount still remaining in the tank each operating day		
[30 Tex. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and Tex Water Code § 26.3475(c)(1)].		a. obtain a delivery certificate; and

### RESPONDENT NAME: ALMEDA, INC. DBA DOWNTOWN TIGER MART DOCKET NO.: 2006-1727-PST-E

### **VIOLATION SUMMARY CHART:** CORRECTIVE ACTIONS PENALTY CONSIDERATIONS VIOLATION INFORMATION TAKEN/REQUIRED b. post the delivery certificate in a location where 4. Failed to conduct effective manual or automatic the document is clearly visible at all times. inventory control procedures for all USTs involved in the retail sale of petroleum substances as a motor 8. Within 10 days of resuming service of the USTs, fuel [30 Tex. Admin. Code § 334.48(c)]. submit written certification to demonstrate compliance with Ordering Provision Nos. 6 and 7. 5. Failed to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate [30 Tex. ADMIN. CODE § 334.8(c)(5)(B)(ii)]. 6. Failed to make available to a common carrier a valid, current, TCEO delivery certificate before accepting delivery of a regulated substance into the USTs at the Facility [30 Tex. ADMIN. CODE § 334.8(c)(5)(A)(i) and Tex WATER CODE § 26.3467(a)].

Page 1 of 12	08/20/08 H:\E	NFORCE\JBoutwe	ell\PST\Almeda	ı, Inc. dba Downtown Ti	ger Mart\PCW Re	evised.qpw
	Per	nalty Calcul	ation Wo	rkşheet (PCW)		
Policy Revision 2 (						on May 19, 2005
TCEQ	18-Sep-2006		godijao sakiliji ili katika ti	관계 및 기계하는 역한 15 전에 15 회사들도 한 50 관계 및 기계하는 역한 15 전에 15 회사들도 한 50	n groupestop, avgerete.	eranta a erregiza en las las estas
DATES Assigned PCW	14-Feb-2007	Screening 25-S	Sep-2006	EPA Due	jidgus seletitikasis T	kita demiki albi il 1905 sele Hizatini 19
Committee of the Commit			1			
RESPONDENT/FACIL	ITY INFORMATI	ON TITLE	7 A - Tab			
Reg. Ent. Ref. No.		Downtown Tiger:	ıvıaı t			
Facility/Site Region		and a second of the second of		Major/Minor Source	Major Source	K
		The same of the same of the same of the same	. Opening the control of the control	TO THE SOURCE OF SANDERS OF THE PROPERTY OF	enteressano de la mandata e persona compres amonte establica.	en anno de la compania del compania de la compania del compania de la compania del la compania de la compania del la compania de la compania
CASE INFORMATION Enf./Case ID No.				No. of Violations	T5	
	2006-1727-PST-			Order Type		হ
Media Program(s)			<u>v</u>	Enf. Coordinator		
Multi-Media		60	·		Enforcement Te	eam 7
Admin. Penalty \$ Li	mit Minimum	\$0   M	laximum  \$1	0,000		
		Penalty (	Calculatio	n Section		
		1 Orially	Jaroarano			•
TOTAL BASE PEN	IALTY (Sum c	of violation bas	se penalties	)	Subtotal 1	\$54,000
			omanala ang kanalang ang ka			
ADJUSTMENTS (-	+/-) TO SUBTO	DTAL 1				
Subtotals 2-7 are o	ibtained by multiplying	the Total Base Penalt	y (Subtotal 1) by the	e indicated percentage. cement	totals 2 3 & 7	\$1,080
X			· · ·			334993434514514514514514514514514514514514514514
Notes	Ennancem	ent for one NOV	winout same o	r similar violation.		
				non transminger of the color of the contract of the colors		***
Culpability	No <u> ≤</u>		0% Enhan	cement :	Subtotal 4	\$4.50
Notes	The re	spondent does no	t meet the culp	ability criteria.		
			•		<u></u>	
Good Faith E	fort to Comply		0% Reduc	tion	Subtotal 5	\$0
	Before NOV NO	DV to EDPRP/Settleme	ent Offer			
Extraordinary Ordinary				91		
N/A		nark with a small x)				
Notes	трого	spondent does no	t meet the good	V faith criteria		
inoles	ille ie	spondent doesand	critect the good			
			00/ /Esha-		Subtotal 6	¢n.
Economic be	Total EB Amounts	\$2,117	0.76 ⊏ililai *Cap	ped at the Total EB \$ Amount	All the second s	φu
1	ost of Compliance	\$4,050				
Pariet Vastin felkatem tillste til Mettaspere minge						
SUM OF SUBTOT	ALS 1-7				Final Subtotal	\$55;080
OTHER FACTORS	SAS HISTIGE	MAYREQUIR	F		Adjustment	\$0
Reduces or enhances the Fi	DEN DESCRIPTION OF STREET	Provide a 197 A 1 197 A 198 A 19	and the second s	.g30 for -30%.)		
Notes			-**		]	
110163				·	J	· · · · · · · · · · · · · · · · · · ·
				Final Pe	enalty Amount	\$55,080

STATUTORY LIMIT ADJUSTMENT

Notes

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

This is not an expedited case.

DEFERRAL

PAYABLE PENALTY

Final Assessed Penalty

0% Reduction Adjustment

Screening Date 25-Sep-2006

Docket No. 2006-1727-PST-E

Case ID No. 31319

Respondent Almeda, Inc. dba Downtown Tiger Mart

Policy Revision 2 (September 2002) PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102532801

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Jason Godeaux

Component		r Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
11717	Other written NOVs	1	2%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	(O	0%
Judgments and	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0 -	0%
Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0.5	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were	0	0%
Audits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	'O'	0%
		nter Yes or No	
	Environmental management systems in place for one year or more	No 🐇	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	. 0%
	Participation in a voluntary pollution reduction program	No.	0%
- Ann aggregate to the second	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
	Adjustment Percei	ntage (Sul	ototal 2)
peat Violato	r (Subtotal 3)		
No	Adjustment Percel	ntage (Sul	ototal 3)
mpliance Hi	story Person Classification (Subtotal 7)		
Average Per		ntage (Sul	ototal 7)
A TIME TO THE PROPERTY OF THE PARTY OF THE P	story Summany		
Compliance istory Notes		tion.	

Page 3 of 12 08/20/08 H:\ENFORCE\JBoutwell\PST\Almeda, inc. dba Downtown Tiger Mart\PCW Revised.qpw Docket No. 2006-1727-PST-E Screening Date 25-Sep-2006 Respondent Almeda, Inc. dba Downtown Tiger Mart Policy Revision 2 (September 2002) Case ID No. 31319 PCW Revision May 19, 2005 Reg. Ent. Reference No. RN102532801 Media [Statute] Petroleum Storage Tank Enf. Coordinator Jason Godeaux Violation Number 30 Tex. Admin. Code § 37.815(a) and (b) Primary Rule Cite(s) Secondary Rule Cite(s) Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property **Violation Description** damage caused by accidental releases arising from the operation of petroleum USTs. **Base Penalty** \$10,000 Environmental, Property and Human Health Matrix Harm Release Moderate OR Actual Percent Potential Programmatic Matrix Falsification Major Moderate Percent 25% 100% of the rule requirement was not met. Matrix Notes Adjustment **Base Penalty Subtotal** \$2,500 Violation Events Number of Violation Events daily monthly Violation Base Penalty \$7,500 quarterly mark only one use a small ) semiannua annua single event Three single events are recommended for the three USTs. Economic Benefit (EB) for this violation Statutory Limit Test \$7,650 Estimated EB Amount \$2,048 Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

\$7.650

Respondent	Almeda, Inc. d	to the wind the remaining a professional activities in the section of the section	<b>enefit Wor</b> Tiger Mart	ksħ	eet		
Reg. Ent. Reference No Media IStatutel Violation No	Petroleum Sto	rage Tank				Percent Interest 5.0	Years of Depreciation
	iltem Gost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB
Delayed Costs							
Equipment			5.42	0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)			520000000000	0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land	\$\$25E2002			0.0	\$0	, ri ≥ n/a	\$0
Record Keeping System			27/2012/34 Sept.	0.0	\$0	a sein/ar	\$0
Training/Sampling		90.745		0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	yov n/a.	. \$0
Permit Costs	2004/36		Programma de	0.0	\$0	ia ta in/ai	\$0
Other (as needed)	er cssun	HKO (L. CON)		0.0]	\$0.	u ym/ar y	\$0
Notes for DELAYED costs							
Avoided Costs	ANNI	IALIZE [1] avoide	d costs before ent	erina it	em (except for or	ne-time avoided co	ists)
Disposal	18/14/2007			0.0	\$0	\$0	\$0
Personnel		020000000000000000000000000000000000000		0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	# A 12 1 1 1 1 1 1 1			0.0	\$0	\$0	\$0
Supplies/equipment	000000000000000000000000000000000000000		\$2.00 King (# 20)	0.0	\$0	\$0	\$0
Financial Assurance [2]	\$1,950	07-Sep-2005	07-Sep-2006	1.0	\$98	\$1,950	\$2,048
ONE-TIME avoided costs [3]	Harris Charles			0.0	\$0	\$0	\$0
Other (as needed)	N-03 - 03 - 1871 - 18			0.0	\$0	\$0	\$0
Notes for AVOIDED costs			incial assurance oth period prece			∖USTs (at \$650 investigation:	) per tank) for
Approx. Cost of Compliance	\$1,950				L-reserve.	TOTAL	\$2,048

Page 5 of 12 08/20/08	H:\ENFORCE\JBoutwell\PST\Almeda, Inc. dba Downtown Tiger	Mart\PCW Revised.qpw
Screening Date	25-Sep-2006 <b>Docket No.</b> 2006-1727-PST-E	PGW.
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Case ID No.		PCW Revision May 19, 2005
Reg. Ent. Reference No.	•	
軽性には、eeが見したとして、それにいたというできょうというだけにしてい	Petroleum Storage Tank	
Enf. Coordinator Violation Number		
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(1)(A) and 334.50(d)(1)(B)(	ii)(l)
Secondary Rule Cite(s)		
Violation Description	Failed to monitor USTs for releases at a frequency of at least of month (not to exceed 35 days between each monitoring). Failed inventory volume measurement for regulated substance input withdrawals, and the amount still remaining in the tank each op day.	to record uts,
	Base	Penalty \$10,000
>> Environmental, Pro	perty and Human Health Matrix Harm	
Release	Major Moderate Minor	•
OR · Actual	x Percent 50%	
Potential		
>> Programmatic Mati	iX	•
Falsification	Major Moderate Minor Percent	
	Control of the second statement of the second statemen	
	ealth or the environment will or could be exposed to pollutants would exceed levels that are protective of human health or environmental receptors as a result of the violation.	
	Adjustment	-\$5,000
1	Base Penalty	Subtotal \$5,000
Violation Events		
		PACIFICATION THROUGH AND
Number of Violati	on Events 1	
•	daiivi daiivi	* · · · · · · · · · · · · · · · · · · ·
	monthly X	D 1/ 000
mark only one use a small x	quarteriy Violation Base semiannual annual single event	e Penalty \$5,000
	nonthly event is recommended from the September 7, 2006 estigation date to the September 25, 2006 screening date.	
Economic Benefit	EB) for this violation	est
Estimated E	B Amount \$68 Violation Final Pen	alty Total \$5,100
	This violation Final Assessed Penalty (adjusted f	or limits) \$5,100

Page 6 of 12 08/20/08	H:\ENFORG	CE/JBoutwell/P	STAImeda, Ind	c. dba	Downtown 11g	er Mart\PCW R	evisea.qpw
	E	eonomie B	enefit Wo	ksh	eet		Carrier State
Respondent	Almeda, Inc. c	re transference are relatively from Four terms from the	the respective statement of the state of the	ALL MAINTENANT		ed an established and establis	
Case ID No.		.54 201111101111	1,90, 11,011			1 7	
Reg. Ent. Reference No.	4						
Media [Statute]	1					Percent	Years of
Violation No.						Interest	Depreciation
	6:41493					5.0	15
and the second s	ltem.	Date	Final	-Yrs	Interest	Onetime	EB
ltem -	Cost	Required	Date		Saved	Costs	J Amount
Description	No.commas or \$			len er			
	or a college of the second	na vaki Novelšajskovinovajš blaze iz baziva	mantung artist in the several political and in the	uzunernera sororen	Seminary Set History College College	ersten fildt state af tearlige og en state fatte state.	
Delayed Gosts							
Equipment	Language and the second	251 State (518) 213		0.0	\$0	\$0	\$0
Buildings		2. 超過,基礎的企業學是學問的。	TO STUDIES STATE	0.0	\$0	\$0	\$0
Other (as needed)	\$1,500	07-Sep-2006	01-May-2007	0.6	\$3	\$65	\$68
Engineering/construction	C POP BY A SE			0.0	\$0	\$0	\$0
Land	X46 15 15 15 15 15 15 15 15 15 15 15 15 15	<u> </u>	32341 (24,639)	0.0	\$0	n/a	\$0
Record Keeping System		37 TAX		0.0	\$0	n/a	\$0
Training/Sampling	e. 7980 3964 5 78	a talent a	Company with	0.0	\$0	n/au	\$0 ¢0
Remediation/Disposal				0.0	<u>\$0</u>	n h/a	\$0 \$0
Permit Costs	K-94,648		(東海域中)	0.0	. \$0 \$0	, an∕a	\$0
Other (as needed)	Eatlmatad	coot to provide	160 00 00 00 00 00 00 00 00 00 00 00 00 0			te required is t	
Notes for DELAYED costs	, Estimated		. Final date is t				ne date or
	1,500	investigation	a mardato o u	no coa	inated date of	compliance.	
	•						•
Avoided Costs	ANN	UALIZE [1] avoide	d costs before en	tering it	em (except for o	ne-time avoided co	osts)
Disposai				0.0	\$0	\$0	\$0
Personnel	6 (10 10 10 10 10 10 10 10 10 10 10 10 10 1			0.0	\$0	\$0	. \$0
Inspection/Reporting/Sampling	140 7 12 2 15 4	15571 1872 Feb. 32	Charles and Market	0.0	\$0	.\$0,	<b>\$</b> 0
Supplies/equipment		HALLS METERS	(com acceptant	0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]			90,000	0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs	SPROVE SECTION		THE RESERVE AND THE PARTY OF TH				
Notes for AVOIDED COSTS							
	(II-de-rich of this is in the little						<u> </u>
Approx. Cost of Compliance	\$1,500					TOTAL	\$68
1		•					

Page 7 of 12 08/20/08	H:\ENFORCE\J	Boutwell\PST\Alme	eda, Inc. dba Downtown Tige	r Mart\PCW	Revised.qpw
Screening Date	25-Sep-2006	Docke	t No. 2006-1727-PST-E		PCW
<b>45.</b> 1563年 200日 200日 47. 11. 11. 11. 12. 12. 13. 13. 14. 15. 16. 17. 17. 17. 17. 17. 17. 17. 17. 17. 17	Almeda, Inc. dba	Downtown Tiger M	lart ,	Policy Revis	ion 2 (September 2002)
Case ID No.	31319			PCV	V Revision May 19, 2005
Reg. Ent. Reference No.	RN102532801			1 v2	
Media [Statute]		je Tank			The state of the s
Enf. Coordinator		•			and the second s
Violation Number		20 Tay Admin	Codo 8:224 49(a)	* C. JAN A. M. P. BOS J.	
Primary Rule Cite(s)		30 Tex. Admin.	Code § 334.48(c)	14 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	***************************************
Secondary Rule Cite(s)	2150				
Violation Description	Pailed to cor procedures for all	USTs involved in	ual or automatic inventory or the retail sale of petroleum si motor fuel.	ubstances	
	•		Bas	e Penalty	\$10,000
>> Environmental, Pro	Harr	m	rix		
Release OR: Actual Potential		J20 0 10 J2 10 15	Percent 50%		
>> Programmatic Mat	rix				
Falsification	Major Modera				
			Percent		
	h would exceed lev		d be exposed to pollutants tive of human health or of the violation		
1022 104 115 12 2005 12 2005 12 2005 12 2005 12 2005 12 2005 12 2005 12 2005 12 2005 12 2005 12 2005 12 2005 12 2005 12			Adjustment	-\$5,000	
			Base Penalty	Subtotal	\$5,000
Violation Events					
Number of Violat	tion Events		•		:
mark only one use a small x	2003/24/24/24/24/24/24/24/24/24/24/24/24/24/		Violation Bas	e Penalty[	\$5,000
One:	monthly event is restigation date to the	ecommended from ne September 15, 2	the September 7, 2006 2006 compliance date.		
Economic Benefit	(EB) for this vi	olation	Statutory Limit T	est	
Estimated E	B Amount	\$1	Violation Final Per	alty Total	\$5,100
	This	violation Final A	seesed Panalty /adjusted	for limite\	\$5 100

Respondent Case ID No. Reg. Ent. Reference No.	Almeda, Inc. d 31319		<b>enefit Wo</b> l Tiger Mart	ksh	eet		V(a)
Item 🛁		Date Required	Final Hull Date	YIS	Interest Saved	5.0 Onetime Costs	
ALTERNATION CONTRACTOR	comarenisius savo	neibigan neistele terres	el same nellas communitati	are stricted	ng pangkania ny manana na		aigever valeringese
Delayed Costs		Section 1	ne Primite Grave i i de 2006. I	0.0	\$0	\$0	\$0
Equipment Buildings		7 (8) 7 (6) (6)	ig talka ji	0.0	\$0 \$0	\$0 \$0	\$0
Other (as needed)	September 12 2000 1		<u> </u>	0.0	\$0	\$0	\$0
Engineering/construction	der genter a	150	37.56 12.15 14.1	0.0	\$0	\$0	\$0
Land		10.78 72.633		0.0	. \$0	All n/ar i. E	\$0
Record Keeping System		20042 CARP	1971 P. W. W. A. (18	0.0	\$0	i i nvaisi	\$0
Training/Sampling	Trought 200 sees	5078 (5070) 6.0	34.38 (0.58)	0.0	\$0	n/a	\$0
Remediation/Disposal			- ionica c	0.0	\$0	in/a	\$0
Permit Costs			A CONTRACTOR	0.0	\$0	i i in/a	\$0
Other (as needed)	\$500	07-Sep-2006	15-Sep-2006	0.0	i / \$1	™/a in/a	\$1
Notes for DELAYED costs		st to conduct in	nventory contro e∵Einal Date is				nvestigation
Avoided Costs	ΔΝΝΙ	ΔUZE (d) avoide	d costs before en	terina if	em (except for on	e-time avoided co	ists)
Disposal	[10]		0230000	0.0	'\$0	\$0	\$0
Personnel	100	Cardina Cardina	344 013 ASS NESSES	0.0	· \$0	\$0	\$0
Inspection/Reporting/Sampling	7.00	constitution of the contract	624 (320) 300	0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]	200720000000000000000000000000000000000	10 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]		\$41/\$240,215.R	BINNER BUSIN	0.0	\$0	\$0	\$0
Other (as needed)	EBASE OF VIOLEN			0.0	\$0	\$0	\$0
Notes for AVOIDED costs							. %1.
Approx. Cost of Compliance	\$500				· · · · · · · · · · · · · · · · · · ·	TOTAL	\$1

Page 9 of 12 08/20/08 H:\ENFORCE\JBoutwell\PST\Almeda, Inc. dba Downtown Tige	er Mart\PCW Revised.qpw
Screening Date 25-Sep-2006 Docket No. 2006-1727-PST-E	iPGW.
Respondent Almeda, Inc. dba Downtown Tiger Mart	Policy Revision 2 (September 2002)
Case ID No. 31319	PCW Revision May 19, 2005
Reg. Ent. Reference No. RN102532801	
Media [Statute] Petroleum Storage Tank	
Enf. Coordinator Jason Godeaux	
Violation Number 4 30 Tex. Admin. Code § 334.8(c)(5)(B)(ii)	\$\$.05 FE.05
Secondary Rule Cite(s)	oderende i vinderende i Little Characteria
Violation Description  Violation Description  Violation Description  Failed to timely renew a previously issued TCEQ delivery certificate expiration and self-cert form at least 30 days before the expiration date of the delivery completed UST registration and self-cert form at least 30 days before the expiration date of the delivery certificate expired on June 30, 20	ification ertificate.
Bas	se Penalty \$10,000
>> Environmental, Property and Human Health Matrix Harm	·
Release Major Moderate Minor	
OR Actual Potential Percent Percent	
>> Programmatic/Matrix	
Falsification Major Moderate Minor  x Percent 25%	
Matrix Notes 100% of the rule requirement was not met.	·
Adjustment	-\$7,500
Base Penalty	y Subtotal \$2,500
Violation Events	
Number of Violation Events	
dally.	
mark only one "quarteriv" Violation Bas	se Penalty \$2,500
mark only one quarienty Violation Bas use a small x semianula	φ2,500
j annuaj Single:event <b>X</b>	
One single event is recommended based on documentation of the	
violation during the September 7, 2006 investigation date:	
Economic Benefit (EB) for this violation Statutory Limit 1	est
Estimated EB Amount \$1 Violation Final Per	nalty Total · \$2,550
This violation Final Assessed Penalty (adjusted	for limits) \$2,550

Page 10 of 12 08/20/08	3 H:\ENFORCE	JBoutwell	STAImeda, Ir	ic. aba	Downtown Tig	er MartiPCW R	evisea.qpw
	Ecor	nomic B	enefit Wo	rkshe	eet		Paris de la compa
Respondent	Almeda, Inc. dba	SEASON WARE BOOMER CONTRACTOR	The state of the s	Registration, Co. Sci.	Tara da	Antonia anti-aria di Antonia di A	en de la company de la comp
Case ID No.						Bridge Comment	
Reg. Ent. Reference No.	RN102532801					in the second	
Media [Statute]	Petroleum Storag	e Tank	•			Percent	Years of
Violation No.	4		natively in the second of the			Interest I	Depreciation
						5.0	15
	item, p	Date			- Interest	Onetime	EB:
ltem.	PARTY SECTION AND	Required	Date	uli sag	Saved	Costs	Amount
Description	iNo commas or \$	Jan Jana Ju	ir (zazilika zalika)				
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Delayed Costs			data jidhadaya 1994			in us it established	HE STATE STATE OF
Equipment				0.0	\$0 #0	\$0	50
Buildings				0.0	\$0 \$0	\$0 60	\$0 £0
Other (as needed)		Start India organi		0.0	\$0 \$0	\$0 \$0	\$0 \$0
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Record Keeping System Training/Sampling				0.0	\$0 \$0	in/asilv. [/ in/a	\$0 \$0
Remediation/Disposal			r gylyf i	0.0	\$0	n/a	\$0
Permit Costs	The second secon	en in the safe		0.0	\$0	n/a	\$0
Other (as needed)			07-Sep-2006		· \$1		\$1
Siller (de libeasa)	the state of the s					elf-certification f	orm Date
Notes for DELAYED costs							
Notes for DELATED Costs	ricquired to oc qu	yo phoneo a	the date			NOSSENTE IS A	
		A - 4 - 7 - 1 - 4 - 4 - 4 - 4 - 4 - 4 - 4 - 4 - 4	i yedikeranjarian negl	antarii 564	hayana ayan karana	Kiesa sedikur (187	
Avoided Costs	ΔΝΝΙΙΔί	IZE![4].avoide	i costs beforeler	feringii	em/except for or	ne-time avoided co	fel
Disposal				0.0	\$0	\$0	\$0
· Personnel	744000000000000000000000000000000000000	3.0		0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	7875 6 - 15 F			0.0	\$0	\$0	\$0
Supplies/equipment			57.73 (1997.W.29)	0.0	\$0	\$0	\$0
Financial Assurance [2]	960506 1 Postilio	15 3 mil 1405 (19)	17212303	0.0	\$0`	\$0	\$0
ONE-TIME avoided costs [3]		1940, S.S.S.	30; 50 TR (21) W. J.	0.0	\$0	\$0	\$0
Other (as needed)	F17 (1.20 (1.50 (1	1,000,000	their dates he is the large	0.0	\$0	\$0	\$0
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							<u>Истания полития полития и поли</u>
Approx. Cost of Compliance	\$100					TOTAL	\$1
						The second secon	

Page 11 of 12 08/20/08	H:\ENFORCE\JBoutwel	I\PST\Almeda, Inc. dba Downtown Tig	er Mart\PCW Revised.qpw
Screening Date	25-Sep-2006	Docket No. 2006-1727-PST-E	PGW
Respondent	Almeda, Inc. dba Downtov	vn Tiger Mart	Policy Revision 2 (September 2002)
Case ID No.	31319		PCW Revision May 19, 2005
Reg. Ent. Reference No.	RN102532801	•	
Media [Statute]	Petroleum Storage Tank		-
Enf. Coordinator	Jason Godeaux		
Violation Number			<u> </u>
Primary Rule Cite(s)		Admin, Code § 334.8(c)(5)(A)(i)	
Secondary Rule Cite(s)		Water Code § 26.3467(a)	TCEO
	delivery certificate before	le to a common carrier a valid, current accepting delivery of a regulated subs	tance into
Violation Description	the USTs at the Facility.	Specifically, the respondent accepted	a total of
	34 fuel deliv	veries without a delivery certificate.	
		Ras	se Penalty \$10,000
		Bas	ψ10,000
>> Environmental Pro	perty and Human He	alth Matrix	
	Harm		·
Release		inor	
OR Actual		x Percent 10%	
Potential	Reserve and the second of the sec	X SECOND 10/0	
>> Programmatic Mat	rix		<i></i>
	Language Control of the Control of t	inor	1
		Percent	ļ
Falluro	to make vallable a valld cu	urrent TCEQ delivery certificate to a	ā ·
commor	carrier before accepting a	delivery of regulated substance into	·
Matrix Notes the USTs	could result in the release	of insignificant amounts of pollutants.	5 d.
that wo		re protective of human health or the innent.	
	enviro	IIII CIT.	
		Adjustment	-\$9,000
		Dana Banak	C:-b4-1
		Base Penalt	y Subtotal' \$1,000
Violation Events			
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Number of Violat	tion Events 34		
	735753222		· <b>**</b>
	dally monthly		•
mark only one		Violation Bas	se Penalty \$34,000
use a small x			
	annual X		
1	single event X		
Thirty-Fo	ur single events are recom	mended (one per fuel drop) based on	
documen	tation of the violation during	g the September 7, 2006 investigation	
		ate.	·
[1.55.0533335]	777 (1000) 100 (1000) 1	CONTRACTOR STATEMENT OF THE STATEMENT OF T	
Economic Benefit	(EB) for this violation	i Statutory Limit	est
Estimated E	B Amount \$0	Violation Final Pe	nalty Total \$34,680
Loundled L			-
	This violation	on Final Assessed Penalty (adjusted	for limits) \$34,680
	Market Services and Control of the C		

Reg. Ent. Reference No.   31319   Reg. Ent. Reference No.   15   Reg. Ent. Reference No.   15   15   15   15   15   15   15   1		e e Ec	onomic B	enefit Wor	ksh	eet		
Reg. Ent. Reference No.   Media   Statute   Petroleum Storage Tank   Petroleum Storage Tank   Petroleum Storage Tank     Petroleum Storage Tank     Petroleum Storage Tank     Petroleum Storage Tank     Petroleum Storage Tank     Petroleum Storage Tank     Petroleum Storage Tank     Petroleum Storage Tank     Petroleum Storage Tank     Petroleum Storage Tank     Petroleum Storage Tank     Petroleum Storage Tank     Petroleum Storage Tank     Petroleum Storage Tank     Petroleum Storage Tank     Petroleum Storage Tank     Petroleum Storage Tank   Petroleum Storage								
Media (Statute)   S						•	* 47	
Interest   Depreciation   Sol			age Tank				Percent	Years of
Item   Cost   Final			ago raint				A TABLE OF CASE OF SHORE AND A STATE OF SHORE AND A	STATE OF THE PROPERTY OF THE P
Item:   Cost								AND ADDRESS OF THE PROPERTY OF
Delayed Costs		- Item //	Paris Date in the	Final A	. Yirs	Interest	Onetime (†	EB
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Buildings	TO SECURE AND ADDRESS OF THE PROPERTY OF THE P		and second revent		0.0	۱ <b>د</b> ر	2012 - 17 - 17 - 17 - 17 - 17 - 17 - 17 -	102
Other (as needed)	* * * *	Section of the second			,			
Engineering/construction								
Land   Record Keeping System   Training/Sampling   Remediation/Disposal   Permit Costs   O.0   \$0   \$0   \$0   \$0   \$0   \$0   \$0		15 (1997)						
Training/Sampling		15 B 1 B 1 G 1 P 1 S		100000000000000000000000000000000000000	0.0	\$0	. wien/a	\$0
Remediation/Disposal	Record Keeping System			195 (M. Se St. 7)	0.0		y n/a y	
Notes for DELAYED costs	Training/Sampling							
Notes for DELAYED costs	•	100000000000000000000000000000000000000		Viv. Dalik (1964)			CONTRACTOR OF THE PROPERTY OF THE PARTY OF T	\$0
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AVOIDED costs  ANNUALIZE (1) avoided costs before entering item (except for one-time) avoided costs)  Disposal Personnel Disposal Personnel Disposal Personnel Disposal Disposal Personnel Disposal Dispo	Other (as needed)		31 <b>6</b> 34.		0.0	<b>\$</b> υ	reas n/ag res	\$U
Disposal   Personnel	Notes for DELAYED costs		⊬Econ	omic benefit in	clude	d in Violation N	o. 4.	
Disposal   Personnel					A Marie A			Section (Section 1997)
Disposal   Personnel			and S					
Disposal   Personnel	Avoided Costs	ANNU	ALIZE (1) avoide	costs before ent	erinali	tem (except for or	e-time avoided co	osts)
Personne	CESTANDARDO CONTRACTOR DE CONTRACTOR DE LA PROPERTO COMPANDA POR CONTRACTOR DE CONTRACTOR DECENTRACTOR DE CONTRACTOR DE CONTRACT	6.025.6300	A CAR CANADA IN THE STATE A PROPERTY OF THE STATE OF THE	the last in the section of the secti	Territory Inches	Circumstance - Comments and Com		
Supplies/equipment         US         \$0         \$0         \$0           Financial Assurance [2]         0.0         \$0         \$0         \$0           ONE-TIME avoided costs [3]         0.0         \$0         \$0         \$0           Other (as needed)         0.0         \$0         \$0         \$0           Notes for AVOIDED costs         0.0         \$0         \$0         \$0	•	SONIA CONSTITUTO	18 (05)15/1/1200.00	Malegoria estados	0.0	\$0	\$0	\$0
Financial Assurance [2]	Inspection/Reporting/Sampling	A CASS IN MICHINAL PROPERTY OF	A transport of the contract of the party of the contract of the	SCIEGLE CENTER		ΨΟ		
ONE-TIME avoided costs [3] Other (as needed)  Notes for AVOIDED costs	Supplies/equipment	75 PAR 015 V	michaelach an	(24) 140 (25)				\$0
Other (as needed) Notes for AVOIDED costs				Mark territoria (1901)			<del></del>	
Notes for AVOIDED costs	1 2 12							
REVIEW REPORT TO THE PARTY OF T	Other (as needed)	Etanozas etanen			0.0	\$U	<u></u> ቕህ	\$U
Approx. Cost of Compliance \$0 \$0	Notes for AVOIDED costs	de de la competit						
Approx. Cost of Compliance \$0					<del>ar sa ya azan an</del> ka			المستسسم
Approx. Cost of Compnance	A	en					W STOTAL	<u>.</u> \$01
	Approx. Cost of Compliance	20				!		ψ0]

### **Compliance History**

Customer	/Respondent/Owner-Opera	tor: CN602805673	Alme	da, Inc.		Classification: AVERAGE	<u> </u>	Rating: 3.67	
Regulated Entity:		RN102532801	DOM	DOWNTOWN TIGER MART		Classification: AVERAGE		Site Rating: 3.67	
ID Numbe	er(s);	PETROLEUM REGISTRATIO		ETANK	REGISTRAT	TION	70!	523	
Location:		2111 FANNIN S	ST, HOUS	TON, TX, 77002		Rating Date: 9/1/2006 Re	∍peat V	iolator: NO	
TCEQ Re	gion:	REGION 12 - H	OUSTON			*		•	
Date Com	pliance History Prepared:	October 02, 200	06						
Agency D	ecision Requiring Compliar	nce History: Enforcement							
Complian		October 02, 20	1 to Octo	ber 02, 2006					
TCEQ Sta	aff Member to Contact for A	dditional Information Regarding	this Com	pliance History		•	·········		
Name:	Jason Godeaux		hone:	512-239-2541					
		Site	Complia	nce History Comp	onents				
1. Has the	site been in existence and	i/or operation for the full five ye	ar complia	ince period?	Yes				
		in ownership of the site during			Yes	·		,	
	who is the current owner?				Almeda, Inc	D. 1			
4. if Yes,	who was/were the prior ow	mer(s)?			Eastern Trus				
5. When	did the change(s) in owners	ship occur?			03/16/2005		<del></del> :		
	nents (Multimedia) for								
A.	•	, court judgements, and conse	nt decrees	of the state of Texas	and the federal	government.			
	, N/A			* .					
В.	•	of the state of Texas and the fed	leral gove	rnment.					
	N/A				. *				
C.	Chronic excessive emission	ons events.				•			
	N/A			,					
D.		estigations. (CCEDS Inv. Track	. No.)	·					
	•	19727) 131968)						•	
	•	512521)		•		÷ .			
E.	Written notices of violation	ns (NOV). (CCEDS Inv. Track.	No.)				•		
	Date: 10/25/2005	(431968)				•			
	Self Report? NO Citation:				ation: Moderate	9			
		30 TAC Chapter 115, SubChap 30 TAC §115.246 (6) - Failure		` '	according to 1	15.244			
	•	(Inspection Requirements).	·			10.2			
	Self Report? NO Citation:	00 TAO OL 1 145 Oct Obs	0 445		ation: Minor				
		30 TAC Chapter 115, SubChap 30 TAC §115.246 (5) - Failure			Its of testing cor	nducted at			
		the facility according to 115.24	5 (Testing	Requirements).					
	Self Report? NO Citation:	00 TAC Objects add Cock Object	C 44E		ation: Moderate	e			
		30 TAC Chapter 115, SubChap 30 TAC §115.244 (3) - Failure		** *	of the compone	ents listed			
		in 115.242(3)(J). These comp	onents inc						
	Self Report? NO	check valves and Stage I dry b	леакъ.	Classific	ation: Minor				
	011 11	30 TAC Chapter 115, SubChap	oter C 115						
	Description:	30 TAC §115.246(1) - Failure (CARB) Executive Order(s) for components installed at the fa	to maintaii the Stage	n a copy of the Californ			٠		
	Self Report? NO			Classific	ation: Moderat	<b>e</b>			

30 TAC Chapter 115, SubChapter C 115.242(3)(A)

Description:

Failure to maintain all components of the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

NI/A

1. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
ALMEDA, INC. DBA DOWNTOWN	§	
TIGER MART;	§	ENVIRONMENTAL QUALITY
RN102532801	§	

### DEFAULT AND SHUTDOWN ORDER DOCKET NO. 2006-1727-PST-E

At its \_\_\_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to Tex. Water Code chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the respondent's fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting entry of an Order requiring the respondent, Almeda, Inc. dba Downtown Tiger Mart ("Almeda, Inc."), to shutdown or remove from service the Underground Storage Tanks ("USTs") at the Downtown Tiger Mart facility, located at 2111 Fannin Street in Houston, Harris County, Texas.

The Commission makes the following Findings of Fact and Conclusions of Law:

#### FINDINGS OF FACT

- 1. Almeda, Inc. owns and operates a convenience store with retail sales of gasoline, located at 2111 Fannin Street in Houston, Harris County, Texas (the "Facility").
- 2. Almeda, Inc.'s three USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Almeda, Inc.'s USTs contain a regulated substance as defined in the rules of the Commission.
- 3. On September 7, 2006, an investigator from the TCEQ Houston Regional Office documented that Almeda, Inc.:
  - a. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

- b. Failed to monitor USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring).
- c. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.
- d. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances as a motor fuel.
- e. Failed to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate. Specifically, the delivery certificate expired on June 30, 2006.
- f. Failed to make available to a common carrier a valid, current, TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs at the Facility. Specifically, Almeda, Inc. accepted a total of 34 fuel deliveries without a delivery certificate.
- 4. By letter dated September 14, 2006, the TCEQ Houston Regional Office provided Almeda, Inc. with notice of the violations and the TCEQ's authority to shut down and remove from service UST systems not in compliance with UST system release detection requirements if the violations were not corrected.
- 5. Almeda, Inc. received notice of the violations on or about September 19, 2006.
- 6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Almeda, Inc. dba Downtown Tiger Mart" (the "EDPRP") in the TCEQ Chief Clerk's office on May 18, 2007.
- 7. By letter dated May 18, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Almeda, Inc. with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Almeda, Inc. received notice of the EDPRP.

- 8. More than 20 days have elapsed since Almeda, Inc. received notice of the EDPRP, provided by the Executive Director. Almeda, Inc. failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
- 9. By letter dated November 17, 2008, TCEQ provided Almeda, Inc. with notice of TCEQ's intent to order the UST systems at the Facility shut down and removed from service if Almeda, Inc. failed to correct the release detection violations within 30 days after Almeda, Inc.'s receipt of the notice.
- As of the date of entry of this Order, Almeda, Inc. has implemented the following corrective measures at the Facility:
  - a. Submitted documentation to the TCEQ demonstrating that acceptable financial assurance was obtained on September 15, 2006;
  - b. Began conducting inventory control procedures on September 15, 2006; and
  - c. Submitted a completed UST registration and self-certification form and obtained a TCEQ delivery certificate on September 7, 2006.
- 11. The UST systems at the Facility do not have tank release detection equipment as required by 30 Tex. ADMIN. Code §§ 334.50(b)(1)(A) and (d)(1)(B)(iii)(I) and Tex Water Code § 26.3475(c)(1) and may be releasing petroleum products to the environment without the knowledge of the tank owner or operator. Therefore, conditions at the Facility constitute an imminent peril to public health, safety, and welfare.

#### CONCLUSIONS OF LAW

- 1. Almeda, Inc.'s USTs are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the Commission.
- 2. As evidenced by Finding of Fact Number 3.a., Almeda, Inc. failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in violation of 30 Tex. ADMIN. CODE § 37.815(a) and (b).
- 3. As evidenced by Finding of Fact Number 3.b., Almeda, Inc. failed to monitor USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring), in violation of 30 Tex. ADMIN. CODE § 334.50(b)(1)(A) and Tex WATER CODE § 26.3475(c)(1).

- 4. As evidenced by Finding of Fact Number 3.c., Almeda, Inc. failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day, in violation of 30 Tex. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and Tex Water Code § 26.3475(c)(1).
- 5. As evidenced by Finding of Fact Number 3.d., Almeda, Inc. failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances as a motor fuel, in violation of 30 Tex. ADMIN. CODE § 334.48(c).
- 6. As evidenced by Finding of Fact Number 3.e., Almeda, Inc. failed to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate, in violation of 30 Tex. ADMIN. CODE § 334.8(c)(5)(B)(ii).
- 7. As evidenced by Finding of Fact Number 3.f., Almeda, Inc. failed to make available to a common carrier a valid, current, TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs at the Facility, in violation of 30 Tex. ADMIN. CODE § 334.8(c)(5)(A)(i) and Tex Water Code § 26.3467(a).
- 8. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director has timely served Almeda, Inc. with proper notice of the EDPRP, as required by Tex. WATER CODE § 7.055 and 30 Tex. ADMIN. CODE § 70.104(c)(2).
- 9. As evidenced by Finding of Fact No. 8, Almeda, Inc. has failed to file a timely answer to the EDPRP, as required by Tex. Water Code § 7.056 and 30 Tex. Admin. Code § 70.105. Pursuant to Tex. Water Code § 7.057 and 30 Tex. Admin. Code § 70.106, the Commission may enter a Default Order against Almeda, Inc. and assess the penalty recommended by the Executive Director.
- 10. Pursuant to Tex. Water Code § 7.051, the Commission has the authority to assess an administrative penalty against Almeda, Inc. for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
- 11. An administrative penalty in the amount of fifty-five thousand eighty dollars (\$55,080.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in Tex. Water Code § 7.053.
- 12. As evidenced by Finding of Fact Nos. 3, 4, 5, 9 and 11, Almeda, Inc. failed to correct documented violations of Commission requirements within 30 days after Almeda, Inc.

received notice of the violations and notice of the Executive Director's intent to shut down the Facility.

- 13. Tex. Water Code § 26.3475(e) authorizes the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of Commission regulatory requirements relating to release detection for tanks and/or piping, spill and overfill protection for tanks, and/or corrosion protection for tanks and piping.
- 14. Tex. Water Code §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
- 15. Pursuant to 30 Tex. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Almeda, Inc.'s UST delivery certificate if the Commission finds that good cause exists.
- 16. Good cause for revocation of Almeda, Inc.'s UST delivery certificate exists as justified by Findings of Fact Nos. 3 through 9, and Conclusions of Law Nos. 2 through 9 and 12.
- 17. As evidenced by Finding of Fact Number 11, current conditions at the Facility constitute an imminent peril to public health, safety, and welfare.

#### ORDERING PROVISIONS

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

- 1. Immediately upon the effective date of this Order, Almeda, Inc. shall take the following steps to shut down operations of the non-compliant UST systems at the Facility:
  - a. Cease dispensing fuel from the USTs;
  - b. Cease receiving deliveries of regulated substances into the USTs;
  - c. Padlock the dispensers;
  - d. Empty the USTs of all regulated substances in accordance with 30 Tex. ADMIN. CODE § 334.54(d); and
  - e. Temporarily remove the UST system from service in accordance with 30 Tex. ADMIN. CODE § 334.54.

- 2. Almeda, Inc.'s UST delivery certificate is revoked immediately upon the effective date of this Order. Almeda, Inc. may submit an application for a new delivery certificate only after Almeda, Inc. has complied with all of the requirements of this Order.
- 3. Within 10 days after the effective date of this Order, Almeda, Inc. shall send its UST delivery certificate to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Within 15 days after the effective date of this Order, Almeda, Inc. shall submit to the Executive Director a detailed written report documenting the steps it has taken to comply with Ordering Provision Nos. 1.a. through 1.e., and 3. Almeda, Inc. shall submit the report to:

Order Compliance Team Enforcement Division, MC 149A Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

and

Nicole Bealle, Waste Section Manager Texas Commission on Environmental Quality Houston Regional Office 5425 Polk Avenue, Suite H Houston, Texas 77023-1486

5. If Almeda, Inc. elects to permanently remove from service any UST systems at the Facility, Almeda, Inc. shall permanently remove those UST systems in accordance with 30 Tex. ADMIN. CODE § 334.55, and shall within 15 days after the effective date of this Order submit to the Commission a written report documenting compliance with 30 Tex. ADMIN. CODE § 334.55. Almeda, Inc. shall submit the written report to:

> Petroleum Storage Tank Registration Team, MC 138 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

6. Almeda, Inc. is assessed an administrative penalty in the amount of fifty-five thousand eighty dollars (\$55,080.00) for violations under Tex. Water Code ch. 26 and rules of the TCEQ. The payment of this administrative penalty and Almeda, Inc.'s compliance with all the terms and conditions set forth in this Order completely resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Almeda, Inc. dba Downtown Tiger Mart; Docket No. 2006-1727-PST-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 7. Almeda, Inc.'s UST systems shall remain out of service, pursuant to Tex. Water Code § 26.3475 as directed by Ordering Provision Nos. 1.a. through 1.e., until such time as Almeda, Inc. demonstrates to the satisfaction of the Executive Director that it has corrected the violations noted in Finding of Fact Nos. 3.b. and 3.c. and Conclusion of Law Nos. 3 and 4 as listed herein.
- 8. Prior to resuming retail sales of gasoline, Almeda, Inc. shall implement a release detection method for all USTs at the Facility, in accordance with 30 Tex. ADMIN. CODE § 334.50, and
- 9. Prior to receiving gasoline deliveries, Almeda, Inc. shall:
  - a. obtain a delivery certificate; and
  - b. shall post the delivery certificate in a location where the documents is clearly visible at all times, in accordance with 30 Tex. ADMIN. CODE § 334.8(c)(5)(A)(iii).
- 10. Within 10 days of resuming service of the USTs, Almeda, Inc. shall submit written certification as described below, and include detailed supporting documentation including

photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 8 and 9. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and, that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Nicole Bealle, Waste Section Manager Texas Commission on Environmental Quality Houston Regional Office 5425 Polk Avenue, Suite H Houston, Texas 77023-1486

- 11. All relief not expressly granted in this Order is denied.
- 12. The provisions of this Order shall apply to and be binding upon Almeda, Inc., and Almeda, Inc. is ordered to give notice of this Order to personnel who maintain day to day control of the UST systems at the Facility.
- 13. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Almeda, Inc. if the Executive Director determines that Almeda, Inc. is noncompliant with or in violation of any of the terms and conditions set forth in this Order.
- 14. This Order shall terminate five years from its effective date or when Almeda, Inc. demonstrates to the satisfaction of the Executive Director that it has corrected all of the violations noted herein.

15. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order is the date this decision was rendered, pursuant to Tex. Gov'T CODE § 2001.144(a)(3).

### SIGNATURE PAGE

TEXAS	COMMISSION	ON ENVIRONMENTAL O	)UALITY
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For the Commission

#### AFFIDAVIT OF JACQUELYN BOUTWELL

STATE OF TEXAS §

COUNTY OF TRAVIS §

"My name is Jacquelyn Boutwell. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Almeda, Inc. dba Downtown Tiger Mart" (the "EDPRP") was filed with the Office of the Chief Clerk on May 18, 2007.

The EDPRP was mailed to Almeda, Inc. at its last known address on May 18, 2007, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Almeda, Inc. received notice of the EDPRP.

More than 20 days have elapsed since Almeda, Inc. received notice of the EDPRP. Almeda, Inc. failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

By letter dated November 17, 2008, I provided Almeda, Inc. with notice of the TCEQ's intent to order the UST systems at the Facility shut down and removed from service if the violations pertaining to release detection were not corrected within 30 days of Almeda, Inc.'s receipt of the letter.

As of the date of this affidavit, I am not aware of any evidence that indicates that Almeda, Inc. has corrected the violations noted during the September 7, 2006, investigation."

Jacquelyn Boutwell, Attorney

Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jacquelyn Boutwell, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this day of Quality. A.D., 2009

Margaret Jackson
Notary Public
State of Texas
My Commission Expires
OCTOBER 06, 2009

Notary Signature